REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed on August 27, 2003. Claims 1-30 are rejected. Claims 1, 14, and 23 have been amended. Claims 1-30 are pending.

Claims Rejections Under 35 USC § 102

The examiner has rejected claims 1-3 and 14-16 under 35 U.S.C. § 102(b) as being anticipated by Ananthanpillai (U.S. Patent No. 5,333,308).

Ananthanpillai discusses a status program that collects data which may indicate errors.

"The results of the status program are analyzed by main program 201 to determine if it is necessary to repair...." (column 7, lines 52-54)

However, the status program of Ananthanpillai runs only at specified, predefined times. Before and after each specified, predefined time, the status program does not run, and the status program fails to collect data which may indicate errors:

"An internal table recurrently derived using entries from the user-defined table specifies to the network monitor a predefined time when a status program should be executed." (column 1, lines 57-60)

"Each status program has associated with it a time parameter (e.g., 452 of FIG. 4) in the user-defined table for determining when to run the status program...." (column 3, lines 18-20)

"The network monitor program periodically accesses the user-defined table 203 to determine which subroutine status programs should be performed during the present time period." (column 4, lines 29-32)

Not only does the status program of Ananthanpillai run only at specified, predefined times; Ananthanpillai discusses running the status program as rarely as once a day or even as rarely as once a year!

> "Note, that while in the present embodiment the time entry 452 for the performance of the various status programs in user-defined table 203 was specified as a time interval, the program could be modified to enable status programs to operate at a specified time (e.g., at 12:00 noon). In such a scenario, the status program would probably operate once a day. Obviously, the time entry could also include one or more specific days of the week, month, year etc., at which time a status program should run." (column 6, lines 43-52)

Thus, Ananthanpillai discusses an error data collection status program that runs only at specified, predefined times.

In contrast with Ananthanpillai, claim 1 as amended claims in part: "continuously detecting a failure in a request for a file made by a program running on a device". Ananthanpillai does not continuously detect; Ananthanpillai collects error data runs only at specified, predefined times. Claims 2 and 3 depend from claim 1. Thus, claims 1-3 are not anticipated by Ananthanpillai.

In contrast with Ananthanpillai, claim 14 as amended claims in part: "continuously detect a failure in a request for a file made by a program running on a device". Ananthanpillai does not continuously detect; Ananthanpillai collects error data runs only at specified, predefined times. Claims 15 and 16 depend from claim 14. Thus, claims 14-16 are not anticipated by Ananthanpillai.

In addition, Ananthanpillai fails to discuss failure detection in file requests. In fact, the only type of error specified in Ananthanpillai is that of correcting a CPU clock by 5 minutes. (column 8, lines 40-45)

For at least the above reasons, withdrawal of the rejection of claims 1-3 and 14-16 under 35 U.S.C. § 102(b) is respectfully requested.

Claims Rejections Under 35 USC § 103(a)

The examiner has rejected claims 4-13 and 17-30 under 35 U.S.C. §103(a) as being unpatentable over Anathanpillai (U.S. Patent No. 5,333,308) in view of Calvert (U.S. Patent No. 5,349,674).

Ananthanpillai discusses an error data collection status program that runs only at specified, predefined times.

Calvert describes a network for transferring data among computer repair vendors and computer users in need of technical support.

Claim 1 as amended claims in part: "continuously detecting a failure in a request for a file made by a program running on a device". Ananthanpillai does not continuously detect; Ananthanpillai collects error data runs only at specified, predefined times. Calvert also fails to make obvious the above claim language. Claims 4-13 depend from claim 1. Thus, claims 4-13 are not unpatentable in view of Ananthanpillai and/or Calvert.

Claim 14 as amended claims in part: "continuously detect a failure in a request for a file made by a program running on a device". Ananthanpillai does not continuously detect; Ananthanpillai collects error data runs only at specified, predefined times. Calvert also fails to make obvious the above claim language. Claims 17-22 depend from claim 14. Thus, claims 17-22 are not unpatentable in view of Ananthanpillai and/or Calvert.

Claim 23 as amended claims in part: "continuously detect a failure in a request for a file made by the program". Ananthanpillai does not continuously detect; Ananthanpillai collects error data runs only at specified, predefined times. Calvert also fails to make obvious the above claim language. Claims 24-30 depend from claim 23. Thus, claims 23-30 are not unpatentable in view of Ananthanpillai and/or Calvert.

In addition, Ananthanpillai and Calvert fail to discuss failure detection in file requests.

For at least the above reasons, withdrawal of the rejection of claims 4-13 and 17-30 under 35 U.S.C. § 103(a) is respectfully requested.

CONCLUSION

It is submitted that the present application is in form for allowance, and such action is respectfully requested. Should the Examiner have any questions, please contact the undersigned attorney.

The Commissioner is authorized to charge any additional fees that may be required, including petition fees and extension of time fees, to Deposit Account No. 23-2415 (Docket No.28903-706).

Respectfully submitted,

Date: 1/7/04   By: _____

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